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HIHRO-M

14 July 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Intermittent Use of Paid Leave While on LWOP-US

1. Technicians are authorized the option to use their accrued paid leave [military, annual, comp time, time off award, and law enforcement leave (if applicable)] intermittently with leave without pay (LWOP-US) while performing duty with the uniformed services. This means that the technician may elect to use some paid leave along with leave without pay each pay period during the active duty period. However, the following guidelines will apply:

a. Since the payroll system and not the personnel system documents the technician's use of "paid" leave, supervisors are responsible for ensuring that timesheets accurately document the amount of accrued paid leave the technician elects to use each pay period. *[NOTE: Sick leave is not an appropriate paid leave to cover a technician performing duty with the uniformed services.]*

b. Technicians are **NOT** authorized to use paid leave the day before or the day after a Federal holiday. Supervisors are responsible for ensuring that this situation doesn't occur. Unless, the technician was on paid leave the entire pay period that included the Federal holiday; or to the point that his/her available paid leave was exhausted the day before or the day after the Federal holiday (39 Comp. Gen. 611).

c. The Human Resources Office (HRO) will process only **one** personnel action to document the technician's use of leave without pay (LWOP) to perform duty with the uniformed services. The Standard Form 50 (Notification of Personnel Action) using the nature of action "LWOP-US" (Nature of Action Code 473) will be effective the **first** day the technician elects to use leave without pay for duty with the uniformed services. The fact that the technician elects to use paid leave intermittently does not affect this nonpay status. A second personnel action will be processed to document the technician's "official" return to duty when the technician is released from active duty.

2. Technicians should be advised of how the following employee benefits are affected when using paid leave Intermittently during the period of active duty:

a. Federal Employees Group Life Insurance (FGLI). This insurance continues for up to 12 months in a nonpay status at no cost to the technician. Since HRO will be processing only

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one personnel action for the LWOP-US, the termination of the FEGLI coverage will be effective one year from the effective date of that LWOP-US. The use of paid leave intermittently while on nonpay status will not change that termination date. So, for those pay periods that the technician elects to use some paid leave, the deduction for the FEGLI insurance will be taken from his/her technician pay. That means that the technician will be paying for the FEGLI coverage during his/her "free" period.

b. Federal Employees Health Benefits (FEHB) Program.

(1) When performing duty with the uniformed services, FEHB coverage continues for up to 18 months unless the technician elects to terminate the coverage. The 18-month period begins the day the technician is separated or placed on a leave of absence (paid and/or nonpay status) to perform the active duty.

(2) The technician is responsible for the employee share of the premium for the first 12 months (365 days); and for 102% of the full subscription rate (employee and government share plus a two-percent administrative fee) for the additional six months. Coverage is terminated at the end of the 18-month period, subject to a 31-day extension of coverage (at no cost to the technician). Technicians who elect to continue their FEHB will have premiums deducted from their pay during any pay period in which paid leave is used.

(3) For technicians who are called to active duty in support of a contingency operation and elect to continue their FEHB, the Department of Defense (DOD) will pay the employee share of the premium for up to 18 months. Technicians using paid leave prior to being placed on leave without pay or intermittently while on leave without pay will NOT be reimbursed by the DOD for premiums deducted while in a paid status.

c. Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS). Military service deposits will still be required for the period of LWOP-US as documented by the SF 50 even though deductions are taken from technician pay during those pay periods in which paid leave is used. This is because only a fraction of the normal deposit for retirement is taken for the period of military service when intermittent leave is used. Since the deposit will be based on when the nonpay status was first used, the technician may end up paying more for retirement credit upon his/her "official" return to duty.

d. Thrift Savings Plan (TSP). Catch-up contributions for TSP will have to be offset (reduced) by any contributions made to a Uniformed Services (Military) TSP account plus any contributions stemming from the use of intermittent leave.

3. Managers and supervisors should also be aware that a request for temporary hire or backfill of a position occupied by a technician who elects to use paid leave intermittently during the period of duty with the uniformed services, may not be approved. Approving such a request

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would increase the expenditure of technician funds for that position since management will be paying for two people during periods of paid leave.

4. Use of paid leave intermittently during the period of duty with the uniformed services does not exclude the technician's responsibility for completing the Standard Form 52 (Request for Personnel Action) for LWOP-US and the USERRA Election Form prior to departing for active duty.

5. Although the use of paid leave intermittently is authorized, the HRO strongly recommends that the technician elects to use his/her accrued paid leave at the beginning of the active duty period and prior to going on LWOP-US.

6. This memorandum supersedes memorandum, HIHRO, 1 March 2002, subject as above.

FOR THE ADJUTANT GENERAL:



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